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EXAMINER	
COLBERT, ELLA	

ART UNIT	PAPER NUMBER
3624	

DATE MAILED: 08/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/684,947	LAWRENCE ET AL.	
	Examiner	Art Unit	
	Ella Colbert	3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 May 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *74* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *74* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *13 may 2004*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claim 74 is pending in this communication filed 05/13/03 entered as Response After Non-Final.

2. The IDS filed 05/27/04 has been considered.

Amendment Objection

3. The amendment filed 03/14/03 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: determining a first value equal to the overlap number of pages in the filtered full list of results corresponding to each of the first and the second third-party engines divided by the number of pages in the filtered full list of the second third-party search engines; determining a second value equal to a number of pages in the filtered full list of the first third-party search engines divided by the overlap number of pages in the filtered full list of results corresponding to each of the plurality of third-party search engines; and determining an estimate of the relative coverage of the plurality of third-party engines by dividing the second value by the first value.

Applicants' specifically point out page and line numbers in the Specification where these limitations are located does not appear to agree with the claim language or to cancel the new matter in the reply to this Office Action. Please refer to the Response to Arguments here below.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Preliminary Matter

6. As a preliminary matter, in an effort to give the application a proper examination the following references have not been received: On page 20, Willet, P. (1988), "Recent

trends in hierarchical document clustering: a critical review", Information Processing and Management 24, 577-597"; page 23, Porter, M. F. (1980), "An algorithm for suffix stripping", program 14, 130-137); page 31, (Eisenberg, M. and Barry, C. (1986), Order effects: A preliminary study of the possible influence of presentation order on user judgments of document relevance, in Proceedings of the 49th Annual Meeting of the American Society for Information Science", Vol. 23, pp. 80-86) 11. Claim 74 rejected under 35 U.S.C. 103(a) as being unpatentable over "Yale University Library/Internet Search Engines; Exercise 4: MetaSearch Engines", hereafter MetaSearch Engines in view of (US 5,987,446) Corey et al, hereafter Corey.

With respect to claim 74, MetaSearch Engines teaches, forwarding a query to each of the plurality of third-party search engines (page 1, last paragraph); retrieving a full list of results comprising pages matching the query from the plurality of third-party search engines (page 2, last drawing figure- "MetaCrawler Search Results"); retrieving text for all pages listed in the full list of results corresponding to each of the plurality of third-party search engines (page 4, fig. 6); filtering out pages from the full list of results corresponding to each of the of third-party search engines if the pages are unavailable or no longer match the query (page 3, fig. 3); estimating the relative coverage of the plurality of third-party search engines (page 4, fig. 5), the estimating step including the steps of:

MetaSearch Engines failed to teach, (i) determining a first value equal to the overlap number of pages in the filtered full list of results corresponding to each of the first and the second third-party search engines divided by the number of pages in the

filtered full list of the second third-party search engine;(ii) determining a second value equal to a number of pages in the filtered full list of the first third-party search engine divided by the overlap number of pages in the filtered full list of results corresponding to each of the plurality of third party engines; and (iii) determining an estimate of the relative coverage of the plurality of third-party engines by dividing the second value by the first value.

Corey teaches, (i) determining a first value equal to the overlap number of pages in the filtered full list of results corresponding to each of the first and the second third-party search engines divided by the number of pages in the filtered full list of the second third-party search engine (col. 3, lines 16-34);(ii) determining a second value equal to a number of pages in the filtered full list of the first third-party search engine divided by the overlap number of pages in the filtered full list of results corresponding to each of the plurality of third party engines(col. 3, lines 35-67 and col. 4, lines 1-5); and (iii) determining an estimate of the relative coverage of the plurality of third-party engines by dividing the second value by the first value (col. 7, lines 34-67, col. 8, lines 1-57, Tables 1-6). It would have been obvious to one having ordinary skill in the art at the time the invention was made to determine a first value equal to the overlap number of pages in the filtered full list of results corresponding to each of the first and the second third-party search engines divided by the number of pages in the filtered full list of the second third-party search engine; determine a second value equal to a number of pages in the filtered full list of the first third-party search engine divided by the overlap number of pages in the filtered full list of results corresponding to each of the plurality of third party

engines; and determine an estimate of the relative coverage of the plurality of third-party engines by dividing the second value by the first value and to modify in MetaSearch Engines because such a modification would allow MetaSearch Engines to better calculate the results of the filtered pages from the multiple search engines and to discard the overlapped pages.

Response to Arguments

7. Applicants' arguments filed 05/13/04 have been fully considered but they are not persuasive. The Examiner considers the arguments to be the issues addressed here below.

Issue no. 1; Applicants' argue: In the Amendment filed August 18, 2003, specific portions of the Specification, in particular, portions of the Specification, page 38 were cited as support for the amendment of claim 74 has been considered but is not persuasive for the reason(s) addressed here below.

Response: The Examiner does not interpret the claim limitations to claim what is in the Specification on page 38, lines 4-10 and figure 31. The Specification reads "Consider the overlap between engines a and b in figure 31. Assuming that each engine samples the Web independently, the quantity n_o/n_b, where n_o is the number of documents returned by both engines and n_b is the number of documents returned by engine b, is an estimate of the fraction of the indexable Web, p_a, covered by engine a. Nothing in the Specification reads the determination of the first value in step I) refers to the value $p_a = n_o/n_b$ on page 38, lines 4-10. Nothing in the Specification reads the (first balue) is the fraction of the indexable Web covered by search engine a (first search engine); n_o is the

number of overlap documents returned by both search engines a and b (first and second engines); ... is the number of documents returned by search engine b (second search engine). Where does it read or come close to what is claimed in claim 74 (i) determining a first value equal to the overlap number of pages in the **filtered full list of results corresponding to each of the first and the second third-party search engines**? There is nothing found on this page or in these lines that read or suggest "the filtered full list of results corresponding to each ...". Applicants' need to particularly point out and claim that which they regard as their invention and the Specification needs to be in agreement with the claim.

Issue no. 2; Applicants' argue: MetaSearch Engines does not disclose or suggest determining an estimate of the relative coverage of a plurality of search engines and the Examiner acknowledges that MetaSearch Engines does not disclose or suggest these features. However Corey discloses these features. Corey does not disclose or suggest determining an estimate of the relative coverage of a plurality of search engines, Corey is incapable of disclosing or suggesting determining an estimate of the relative coverage of a plurality of search engines by dividing the second value by the first value has been considered but is not persuasive.

Response: It is interpreted that Corey does teach determining an estimate of the relative coverage of a plurality of search engines by dividing the second value by the first value in col. 7, lines 34-67, col. 8, lines 1-57, Tables 1-6. Applicants' claim reads "determining an estimate of the relative coverage of a plurality of third-party (i.e.

emphasis, third-party search engines) search engines by dividing the second value by the first value.

Issue no. 3; Applicants' argue: The cited prior art, MetaSearch Engines and Corey, even if taken together as a whole, does not disclose or suggest the features of independent claim 74 has been considered but is not persuasive.

Response: It is interpreted according to Applicants' breadth of the claim limitations that MetaSearch Engines teaches forwarding a query to each of a plurality of third-party search engines; retrieving a full list of the results comprising pages matching the query from the plurality of third-party search engines; retrieving text for the pages listed in the full list of results ...; filtering out the pages from the full list of results ...; estimating the relative coverage of the plurality of third-party search engines on page 1, the last paragraph, page 2, the last drawing figure, page 3, fig. 3, and page 4, fig. 5 and fig. 6 and Corey teaches, determining a first value equal to the overlap number of pages in the filtered full list of results corresponding to each of the first and the second third-party search engines divided by the number of pages in the filtered full list of the second third-party search engine (col. 3, lines 16-34);(ii) determining a second value equal to a number of pages in the filtered full list of the first third-party search engine divided by the overlap number of pages in the filtered full list of results corresponding to each of the plurality of third party engines(col. 3, lines 35-67 and col. 4, lines 1-5); and (iii) determining an estimate of the relative coverage of the plurality of third-party engines by dividing the second value by the first value (col. 7, lines 34-67, col. 8, lines 1-57, Tables 1-6). It would have been obvious to one having ordinary skill in the art at

the time the invention was made to determine a first value equal to the overlap number of pages in the filtered full list of results corresponding to each of the first and the second third-party search engines divided by the number of pages in the filtered full list of the second third-party search engine; determine a second value equal to a number of pages in the filtered full list of the first third-party search engine divided by the overlap number of pages in the filtered full list of results corresponding to each of the plurality of third party engines; and determine an estimate of the relative coverage of the plurality of third-party engines by dividing the second value by the first value and to modify in MetaSearch Engines because such a modification would allow MetaSearch Engines to better calculate the results of the filtered pages from the multiple search engines and to discard the overlapped pages. Together MetaSearch Engines and Corey teach the claim limitations of claim 74.

Conclusion: Applicants' are respectfully requested to clarify in the claim language and Applicants' Specification what the Examiner has considered as new matter in order to further prosecution of this application.

In this rejection of claim 74, for example under Section 103 (a) of Title 35 of the United States Code, the Examiner carefully drew up a correspondence between the Applicants' claimed limitations and one or more referenced passages in the MetSearch Engines and Corey references, what is well known in the art, and what is known to one having ordinary skill in the art (the skilled artisan). The Examiner is entitled to give claim limitations their broadest reasonable interpretation in light of the Specification (see below):

2111 Claim Interpretation; Broadest Reasonable Interpretation [R-1]

>CLAIMS MUST BE GIVEN THEIR BROADEST REASONABLE INTERPRETATION
During patent examination, the pending claims must be "given the broadest reasonable interpretation consistent with the specification." Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541,550-51 (CCPA 1969).<.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Inquiries

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 703-308-7064. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 703-308-1038. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

E. Colbert
August 10, 2004

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